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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/580,693	KATAOKA, MITSUTERU
	Examiner	Art Unit
	JAMES R. MARANDI	2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 March 2009*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15,17-33,35-37 and 39* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-15,17-33,35-37,and 39* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
    1.☐ Certified copies of the priority documents have been received.
    2.☐ Certified copies of the priority documents have been received in Application No. _____.
    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth

   in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

   application is eligible for continued examination under 37 CFR 1.114, and the fee set

   forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

   has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

   3/23/2009 has been entered.

Response to Amendment

2. This action is in response to applicant's amendment filed on 3/23/09. Claims 1-15,

   17-33, 35-37, and 39 are presently pending. Claims 16, 34, and 38 have been

   canceled.

   2.1. In view of applicant's amendment, objections to claims 17, 18, 34, and 35, as

        presented in the Office Action of 12/23/2008, is hereby withdrawn.

Response to Arguments

3. Applicant's arguments filed 3/23/2009 have been fully considered but they are not

persuasive.

3.1. Applicants assert that (page 12 of Remarks, paragraphs 4, 5, and 6):

{...the "recommendation reason" of the present invention is clearly different from

that disclosed in Ellis for at least the reason noted below.

In the Office Action, the Examiner seems to regard the "recommendation reason"

as "any one of program characteristics." However, "any one of program

characteristics" as disclosed in Ellis is merely one of characteristics related to a

program. On the other hand, the "recommendation reason" of the present

invention is based on a result of analysis of "viewer" characteristics.

Accordingly, Ellis and the present invention are completely different in terms of

technical significance. In other words, the "recommendation reason" of the

present invention corresponds to "viewer" characteristics, and cannot be "any

one of program characteristics," as in Ellis.}

Examiner disagrees. Customizing and/or recommending programs to a viewer

have two components: Viewer Profile and Program Characteristics. It is the

correlation and matching of these two attributes which determine which programs
are shown to the viewer.

Ellis gathers viewer likes/ dislikes (which are also characteristics of the viewer)
through series of menus, such as reflected in Figs. 2a, 2b, 3, 7, 8, 12, 13 that the
user may specify. Also Ellis provides for collecting user preferences by
automatically observing viewer's habits, for example, viewing times, and
frequencies, as shown in Fig. 14 (also Col. 11, lines 4- 16). These are all
indicative of "viewer characteristics" which are matched against "program
characteristics" resulting in recommendation reasons leading to Fig. 19, where
list of channels that Mike likes are presented.

Claim Objections

4. Claim 39 is objected to, as recited, since it creates several potential 35 USC § 101
    issues:

    4.1. "**A computer recordable recording medium recording a program**" that
         causes a device (**program notification device**) containing the same **to**
         perform steps for .... There is no explicit processor recited to <u>execute</u> said
         functional descriptive material (computer code stored on a storage medium).

4.2. The medium in "**A computer recordable recording medium recording a program**" is too broad and may be construed to include <u>signal</u> which is non-statutory.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1- 3, 7, 9- 12, 14, 17, 19- 21, 25, 27- 30, 32, 35, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over M.D. Ellis, USPN 7,185,355 (hereinafter "Ellis") in view of D.L. DeFreese et al., USPN 6,493,876 (hereinafter "DeFreese").

6.1. Regarding claim 1, Ellis discloses **a recommended program notification method notifying a user of a recommended program** (Fig. 25; Col. 13, lines 57-61), **comprising the steps of:**

inputting a user's instruction including a recommendation control instruction (Figs. 14, 15; Col. 11, lines 4-23)**;**

detecting notification timing with which a notification of a recommended program is performed (Fig. 15, elements 156, 158), **when the recommendation control instruction is not input** (Col. 11, lines 21-23)**; and**

displaying a notification screen indicating the existence of a recommended program when the notification timing is detected (Fig. 15, steps 156, 158; Figs. 25, and 26; Col. 14, lines 20-24).

Selecting a recommendation condition to be displayed from among a plurality of recommendation conditions (as shown in the process flows of Figs. 2a and 2b, through a series of menus, such as Figs. 3,7, 8, 12, and 13, a series of recommendation conditions are presented to the user for his/her selection)**;**

Generating a recommendation reason from the selected recommendation condition (as shown in process flow of Fig. 6, once all attributes/preferences are sleeted, a list of resulting content matching the collective reasoning of the attributes is presented to the user. For example, Fig 19 shows the channels matching the Mike's profile, where the reason for this showing is what Mike likes only (196)**;**

Ellis does not disclose **causing the generated recommendation condition to be included in the notification screen**.

However, DeFreese, in analogous art, discloses **causing the generated recommendation condition to be included in the notification screen,** for example the star 442 in Fig. 21 is indicative that the program is on the list of viewer's favorite (Col. 27, lines 59- 64)

Therefore, it would have been obvious to one of ordinary skills in the art, at the time of invention, to modify the system of Ellis with DeFreese's invention in order to add an indication of why the program is recommended as a convenient way for the user to be kept informed of various programs of interest to the user at the appropriate time according to user preferences.

6.1.1. Regarding claim 2, Ellis discloses **wherein the notification timing detecting step detects timing with which a recommended program starts, as the notification timing** (Col. 11, lines 21-31).

6.1.2. Regarding claim 3, Ellis does not disclose **wherein the notification timing detecting step detects timing with which selected stations are changed, as the notification timing.** However, DeFreese discloses launching an information banner upon a change in channel (Fig. 4, elements 100, 106, 114; Col. 15, lines 1-12)

Therefore, it would have been obvious to one of ordinary skill in art, at the time of invention, to modify the system of Ellis with DeFreese's invention in order to provide additional viewing convenience to viewer.

6.1.3. Regarding claim 7, Ellis discloses **displaying a list screen (226) indicating a list of recommended programs when the recommendation control instruction is input while the notification screen is being displayed** (Col. 13, lines 57- 61).

6.1.4. Regarding claim 9, Ellis does not explicitly disclose **erasing the notification screen when a predetermined time has elapsed while the notification screen is being displayed.** However, DeFreese discloses erasing the notification (banner) 114, upon elapse of a predetermined time (e.g. 2 seconds). (Fig. 4; Col. 15, lines 14-17)

Therefore, it would have been obvious to one of ordinary skill in art, at the time of invention, to modify the system of Ellis with DeFreese's invention in order to provide additional viewing convenience to viewer.

6.1.5. Regarding claim 10, Ellis does not disclose **erasing the notification screen when an instruction other than the recommendation control instruction is input while the notification screen is being displayed.** However, DeFreese discloses using various key strokes to erase the notifications (Figure 6, Col. 18, lines 50- 55).

Therefore, it would have been obvious to one of ordinary skill in art, at the time of invention, to modify the system of Ellis with DeFreese's invention in order to provide additional viewing convenience to viewer.

6.1.6. Regarding claim 11, Ellis does not explicitly disclose **changing an information amount of a recommended program included in the notification screen when the recommendation control instruction is input.** However, DeFreese discloses **changing an information amount of a recommended program** (Fig. 4, compare elements 124 and 126; Col. 15, lines 34- 38) **included in the notification screen** (124, 126) **when the**

recommendation control instruction is input.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of invention, to modify the system of Ellis with DeFreese's invention in order to provide additional viewing convenience to viewer.

6.1.7. Claim 12 is rejected by the same analysis as claims 11. Appearance and erasure of various menu/ notifications were further analyzed in claims 10.

6.1.8. Claim 14 is rejected by the same analysis as claims 12.

6.1.9. Regarding claim 17, the system of Ellis and DeFreese discloses **wherein the recommendation reason is any one of frequent viewing of a program, appearance of a specific performer in a program, belonging of a program to a specific genre, and inclusion of a specific character string in a document accompanying a program**. (See DeFreese Col. 27, lines 38- 41; though in the example theme and show times are sorted and presented, programs can be sorted and displayed based on any one of program characteristics)

6.1.10.   Claim 37, computer code effectuating the method of claim 1 is

rejected by same analysis.

6.2. Regarding claim 19, Ellis discloses **a recommended program notification**

device of notifying a user of a recommended program (Fig. 25; Col. 13, lines

57-61), **comprising:**

displaying means of displaying a program video (Fig. 1, 40, 48);

inputting means (50) for inputting a user's instruction including a

recommendation control instruction (Figs. 14, 15; Col. 11, lines 4-23);

controlling means (44) of controlling a content displayed on the

displaying means based on an instruction input using inputting means

(through interaction with STB 44, via remote control 50, the user is able to control

what content from 36 is displayed on TV 48) **; and**

timing detecting means detecting notification timing with which a

notification of a recommended program is performed (Fig. 15, elements 156,

158), **when the recommendation control instruction is not input** (Col. 11,

lines 21-23); **and**

wherein the controlling means controls the displaying means to

display a notification screen indicating the existence of a recommended

program when the notification timing is detected by the timing means (Fig.

15, steps 156, 158; Figs. 25, and 26; Col. 14, lines 20-24); to **selecting a**

recommendation condition to be displayed from among a plurality of

recommendation conditions (as shown in the process flows of Figs. 2a and 2b,

through a series of menus, such as Figs. 3,7, 8, 12, and 13, a series of

recommendation conditions are presented to the user for his/her selection); **to**

generating a recommendation reason from the selected recommendation

condition (as shown in process flow of Fig. 6, once all attributes/preferences are

sleeted, a list of resulting content matching the collective reasoning of the

attributes is presented to the user. For example, Fig 19 shows the channels

matching the Mike's profile, where the reason for this showing is what Mike likes

only (196);

Ellis does not disclose **to cause the generated recommendation condition to**

be included in the notification screen.

However, DeFreese, in analogous art, discloses **to cause the generated**

recommendation condition to be included in the notification screen, for

example the star 442 in Fig. 21 is indicative that the program is on the list of

viewer's favorite (Col. 27, lines 59- 64)

Therefore, it would have been obvious to one of ordinary skills in the art, at the

time of invention, to modify the system of Ellis with DeFreese's invention in order

to add an indication of why the program is recommended as a convenient way for

the user to be kept informed of various programs of interest to the user at the

appropriate time according to user preferences.

6.2.1. Regarding claim 20, Ellis discloses **wherein the notification timing**

detecting step detects timing with which a recommended program

starts, as the notification timing (Col. 11, lines 21-31).

6.2.2. Regarding claim 21, Ellis does not disclose **wherein the notification**

timing detecting step detects timing with which selected stations are

changed, as the notification timing. However, DeFreese discloses

launching an information banner upon a change in channel (Fig. 4, elements

100, 106, 114; Col. 15, lines 1-12)

Therefore, it would have been obvious to one of ordinary skill in art, at the

time of invention, to modify the system of Ellis with DeFreese's invention in

order to provide additional viewing convenience to viewer.

6.2.3. Regarding claim 25, Ellis discloses **displaying a list screen** (226)

indicating a list of recommended programs when the recommendation

control instruction is input while the notification screen is being

displayed (Col. 13, lines 57- 61).

6.2.4. Regarding claim 27, Ellis does not explicitly disclose **erasing the**

notification screen when a predetermined time has elapsed while the

notification screen is being displayed. However, DeFreese discloses

erasing the notification (banner) 114, upon elapse of a predetermined time

(e.g. 2 seconds). (Fig. 4; Col. 15, lines 14-17)

Therefore, it would have been obvious to one of ordinary skill in art, at the

time of invention, to modify the system of Ellis with DeFreese's invention in

order to provide additional viewing convenience to viewer.

6.2.5. Regarding claim 28, Ellis does not disclose **erasing the notification**

screen when an instruction other than the recommendation control

instruction is input while the notification screen is being displayed.

However, DeFreese discloses using various key strokes to erase the

notifications (Figure 6, Col. 18, lines 50- 55).

Therefore, it would have been obvious to one of ordinary skill in art, at the

time of invention, to modify the system of Ellis with DeFreese's invention in

order to provide additional viewing convenience to viewer.

6.2.6. Regarding claim 29, Ellis does not explicitly disclose **changing an**

information amount of a recommended program included in the

notification screen when the recommendation control instruction is

input. However, DeFreese discloses **changing an information amount of**

a recommended program (Fig. 4, compare elements 124 and 126; Col. 15,

lines 34- 38) **included in the notification screen** (124, 126) **when the**

recommendation control instruction is input.

Therefore, it would have been obvious to one of ordinary skill in the art, at

the time of invention, to modify the system of Ellis with DeFreese's invention

in order to provide additional viewing convenience to viewer.

6.2.7. Claim 30 is rejected by the same analysis as claims 29. Appearance and

erasure of various menu/ notifications were further analyzed in claims 10.

6.2.8. Claim 32 is rejected by the same analysis as claims 30.

6.2.9. Regarding claim 35, the system of Ellis and DeFreese discloses **wherein**

the recommendation reason is any one of frequent viewing of a

program, appearance of a specific performer in a program, belonging

of a program to a specific genre, and inclusion of a specific character

string in a document accompanying a program. (See DeFreese Col. 27,

lines 38- 41; though in the example theme and show times are sorted and

presented, programs can be sorted and displayed based on any one of

program characteristics)

6.3. Regarding claim 39, Ellis discloses a computer code for **notifying a user of a**

recommended program (Fig. 25; Col. 13, lines 57-61)**, the steps comprising:**

Displaying a program video (Fig.1, programs are displayed on 48, or

40)**;**

inputting a user's instruction including a recommendation control

instruction (Figs. 14, 15; Col. 11, lines 4-23)**;**

controlling a content displayed based on an instruction input

(through interaction with STB 44, via remote control 50, the user is able to control

what content from 36 is displayed on TV 48) **; and**

detecting notification timing with which a notification of a recommended program is performed (Fig. 15, elements 156, 158), **when the recommendation control instruction is not input** (Col. 11, lines 21-23)**; and**

Selecting a recommendation condition to be displayed from among a plurality of recommendation conditions (as shown in the process flows of Figs. 2a and 2b, through a series of menus, such as Figs. 3,7, 8, 12, and 13, a series of recommendation conditions are presented to the user for his/her selection);

Generating a recommendation reason from the selected recommendation condition (as shown in process flow of Fig. 6, once all attributes/preferences are sleeted, a list of resulting content matching the collective reasoning of the attributes is presented to the user. For example, Fig 19 shows the channels matching the Mike's profile, where the reason for this showing is what Mike likes only (196);

Ellis does not disclose **causing the generated recommendation condition to be included in the notification screen**.

However, DeFreese, in analogous art, discloses **causing the generated recommendation condition to be included in the notification screen,** for example the star 442 in Fig. 21 is indicative that the program is on the list of viewer's favorite (Col. 27, lines 59- 64)

Therefore, it would have been obvious to one of ordinary skills in the art, at the

time of invention, to modify the system of Ellis with DeFreese's invention in order

to add an indication of why the program is recommended as a convenient way for

the user to be kept informed of various programs of interest to the user at the

appropriate time according to user preferences.

7. Claims 4, 5, 6, 8, 22, 23, 24, and 26 are rejected under 35 U.S.C. 103(a) as being

    unpatentable over Ellis in view DeFreese, in further view of S. M. Schein, USPN

    6,732,369 (hereinafter "Schein").

    7.1. Regarding claim 4, the system of Ellis and DeFreese does not disclose **where**

         the notification timing detecting step detects timing with which a channel

         display starts, as the notification timing. However, Schein, in analogous art,

         discloses displaying a menu upon **channel display start** (Figs 17; Col. 23, lines

         23-33. In Fig. 17B, by clicking the remote, the banner display of 530 is launched

         on the screen. Element 530 is illustrated to give the user several options which

         allows for launching/ selection of other options (Menu elements 0- 3). One such

option is shown in Fig. 17C where the viewer sees TLC 23 while at the same

time watching ABC.

Therefore, it would have been obvious to one of ordinary skill in art, at the time of

invention, to modify the system of Ellis and DeFreese with Schein's invention in

order to provide for ease of program navigation and selection.

7.1.1. Regarding claim 5, the system of Ellis and DeFreese, and Schein

discloses **erasing the notification screen when the channel display is**

ended. (Schein, Fig. 17B, menu item (0))

7.1.2. Claim 6 is rejected by the same analysis as claims 4.

7.2. Regarding claim 8, the system of Ellis and DeFreese does not disclose

displaying a video of a recommended program when the recommendation

control instruction is input while the notification screen is being displayed.

However Schein discloses **displaying a video of a recommended program**

(Fig. 17C, TLC 23) **when the recommendation control instruction is input**

while the notification screen is being displayed (Fig. 17C; Col 23, lines 40-

42)

Therefore, it would have been obvious to one of ordinary skill in art, at the time of

invention, to modify the system of Ellis and DeFreese with Schein's invention in

order to provide for ease of program navigation and selection.

7.3. Regarding claim 22, the system of Ellis and DeFreese does not disclose **where**

the notification timing detecting step detects timing with which a channel

display starts, as the notification timing. However, Schein, in analogous art,

discloses displaying a menu upon **channel display start** (Figs 17; Col. 23, lines

23-33. In Fig. 17B, by clicking the remote, the banner display of 530 is launched

on the screen. Element 530 is illustrated to give the user several options which

allows for launching/ selection of other options (Menu elements 0- 3). One such

option is shown in Fig. 17C where the viewer sees TLC 23 while at the same

time watching ABC.

Therefore, it would have been obvious to one of ordinary skill in art, at the time of

invention, to modify the system of Ellis and DeFreese with Schein's invention in

order to provide for ease of program navigation and selection.

7.3.1. Regarding claim 23, the system of Ellis and DeFreese, and Schein

discloses **erasing the notification screen when the channel display is**

ended. (Schein, Fig. 17B, menu item (0))

7.3.2. Claim 24 is rejected by the same analysis as claim 22.

7.4. Regarding claim 26, the system of Ellis and DeFreese does not disclose

displaying a video of a recommended program when the recommendation

control instruction is input while the notification screen is being displayed.

However Schein discloses **displaying a video of a recommended program**

(Fig. 17C, TLC 23) **when the recommendation control instruction is input**

while the notification screen is being displayed (Fig. 17C; Col 23, lines 40-

42)

Therefore, it would have been obvious to one of ordinary skill in art, at the time of

invention, to modify the system of Ellis and DeFreese with Schein's invention in

order to provide for ease of program navigation and selection.

8. Claims 13, 15, 18, 31, 33, and 36 are rejected under 35 U.S.C. 103(a) as being

    unpatentable over Ellis in view of DeFreese, in further view of A. Wagner, USPN

    6,335,736 (hereinafter "Wagner").

8.1. As for claim 13, the system of Ellis and DeFreese does not disclose **wherein the**

    notification screen is an icon which is overlaid and displayed on a

    program video.

    However, Wagner, in analogous art, discloses a **notification Icon** (Fig. 6,

    elements 40, 41) **overlaid and displayed on a program video** (30).

    Therefore, it would have been obvious to one of ordinary skill in the art, at the

    time of invention, to modify the system of Ellis and DeFreese with Wagner's

    teaching in order to provide for ease of use of program navigation and selection.

8.2. Claim 15 is rejected by the same analysis as claim 13.

8.3. Claims 18 is rejected by the same analysis as claim 13.

8.4. As for claim 31, the system of Ellis and DeFreese does not disclose **wherein the notification screen is an icon which is overlaid and displayed on a program video**.

However, Wagner, in analogous art, discloses a **notification Icon** (Fig. 6, elements 40, 41) **overlaid and displayed on a program video** (30).

Therefore, it would have been obvious to one of ordinary skill in art, at the time of invention, to modify the system of Ellis and DeFreese with Wagner's teaching in order to provide for ease of use of program navigation and selection.

8.5. Claim 33 is rejected by the same analysis as claim 31.

8.6. Claim 36 is rejected by the same analysis as claim 31.

Contacts

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JAMES R. MARANDI whose telephone number is

(571)270-1843. The examiner can normally be reached on 8:00 AM- 5:00 PM M-F,

EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James R. Marandi/
Examiner, Art Unit 2421

/Annan Q Shang/
Primary Examiner, Art Unit 2424